

**NTT****ORIGINAL**

Masaruobu Suzuki  
Executive Vice President

**NIIPPON TELEGRAPH AND TELEPHONE CORPORATION**

Tokyo Opera City Tower  
20-2 Nishi-Shinjuku 3-chome, Shinjuku-ku, Tokyo 163-14 Japan  
Telephone +81 3 5363 8200  
Facsimile +81 3 5363 8900

**RECEIVED**

AUG 12 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**DOCKET FILE COPY ORIGINAL****August 12, 1997**

**Mr. William F. Caton**  
**Acting Secretary**  
**Federal Communications Commission**  
**1919 M Street, NW Room 222**  
**Washington, D.C. 20554**

**Re: Notice of Proposed Rulemaking for Rules and**  
**Policies on Foreign Participation in the U.S.**  
**Telecommunication Market, IB Docket No. 97-142**

**Dear Mr. Caton:**

Nippon Telegraph and Telephone Corporation ("NTT") hereby submits reply comments in the above-referenced *Notice of Proposed Rulemaking* ("NPRM") considering changes in Federal Communications Commission ("FCC") policies and procedures in view of the World Trade Organization ("WTO") Group on Basic Telecommunications Agreement ("GBT"), which comes into force on January 1, 1998.

As a consequence of a change in Japanese laws, NTT is now undergoing a major reorganization that in 1999 will establish a separate corporation for long distance (including international operations) and two corporations providing regional local services under a holding company. Under the new statute, NTT is now permitted to provide international services and received a license from MPT to operate through a subsidiary as a Type II reseller. The government of Japan ("GOJ") is a WTO Member and a signatory to the GBT, and has committed to the Regulatory Principles of the Reference Paper. The GOJ has guaranteed market

No. of Copies rec'd  
List ABCDE

024

access and national treatment under the terms of the GBT for all services and facilities and foreign investment, with a 20% limit on foreign investment in NTT and KDD.

As a new entrant in the international service field, NTT is concerned about this proceeding. It is important to note, however, that the outcome of this proceeding affects not just opportunities in the US market, but in economies across the globe. Because the US plays a leadership role in the WTO, the integrity of the GBT and the Reference Paper depends to a large extent on the examples set in carrying out WTO principles and requirements by the US through the FCC.

Some commenters have questioned the legality of some aspects of the NPRM to implement the GBT and these arguments should be considered very carefully. Even more important than legal sufficiency of the proposals at this crucial stage of implementation is the need for the FCC to demonstrate faith in the integrity of the WTO and its members. A policy that shows US confidence in the WTO process will influence similarly positive responses throughout the world. This will benefit not just US consumers, but consumers in the global economy.

The emphasis on developing a standard for *denial* of applications filed by new international entrants--those that pose a "very high risk to competition"--may send an ominous message about US confidence in and commitment to the GBT.

Instead of emphasizing the need to deny applications under specific circumstances that are at this juncture necessarily difficult to define, the FCC should underscore the US commitment to the GBT by adopting an open entry policy. Such policy would reflect its traditional open market philosophy successfully applied in the US domestic market. It would also demonstrate the confidence of a key administration in the WTO process.

Rather than basing its entry standard on speculation that some WTO members may not observe their commitments and the possibility that competitive abuses may occur, the FCC should adopt the commenters' suggestions for an expedited complaint and enforcement process to address actual anti-competitive behavior that affects the US market.

Similarly, denying entry to foreign companies based on trade or other political factors has no place in a policy devoted to nondiscrimination and

transparency. Leaving open the possibility that an application may be denied based on such indeterminable factors is inconsistent with WTO principles and may undermine confidence in the GBT.

Because delay in application processing could lead to constructive denial of applications, the FCC should adopt a reasonable time limit on the processing of applications. This concern is not academic. The section 214 application of NTT's US affiliate, ntt.com inc. ("ntt.com"), was removed from streamlined processing at the request of Executive Branch agencies pending study of unspecified matters. The refusal to process this routine application has effectively denied ntt.com the ability to serve the US market and US consumers the benefits of the innovative services and additional competition that ntt.com would provide. In addition to the serious consequences of this action to NTT and consumers, the apparently discriminatory treatment of ntt.com's application coming so close in time to the effective date of the GBT does not serve the critical need for the US - as a key WTO member - to underscore its conviction that GBT principles are sound and that the principles and requirements of the agreement must be upheld.

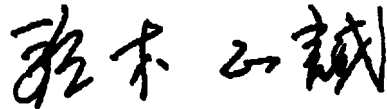
The FCC should rely on Reference Paper commitments as safeguards against anti-competitive behavior. The Reference Paper requires members to adopt policies and procedures to ensure nondiscriminatory interconnection, prevention of cross-subsidization and other anti-competitive practices and the creation of independent regulators to ensure transparency and nondiscrimination in policies and procedures. These requirements for safeguards can be relied upon as they are enforceable through the WTO dispute resolution process. Instead of suggesting the need to backstop the requirements of the Reference Paper with the proposed dominant carrier regime, the US should emphasize its commitment to the GBT and its reasonable reliance on the integrity of the WTO process. This demonstration of confidence in the GBT will influence other nations to open and deregulate their markets as they continue to look to the US for leadership in WTO implementation.

Any actual anti-competitive behavior affecting the US market that may nonetheless occur should be addressed quickly through the suggested expedited complaint process. The proposed reporting requirements may help detect such

improper behavior and should be applicable to all carriers. The prohibitions and restrictions proposed to apply to "supplemental dominant" carriers and the special concessions restrictions should be among the remedies available to the Commission to address proven anti-competitive behavior. A requirement for structural separation or prohibition of exclusive joint marketing should be reserved for the most egregious proven anti-competitive behavior because these restrictions undermine the consumer benefits of fully integrated global service offerings.

In conclusion, US leadership is essential to the success of the GBT and the Reference Paper commitments. The FCC should underscore the US commitment to the GBT by emphasizing an open entry policy for international services instead of circumstances under which it would deny applications. Similarly, the FCC can reinforce the US commitment to the GBT by relying on WTO enforcement mechanisms rather than regulatory requirements that might be misinterpreted as a lack of faith in the WTO and the commitments of its members. Further, any proven anti-competitive practices affecting the US market can be effectively addressed through an expedited FCC complaint and enforcement process. NTT looks forward to working with the FCC in WTO implementation and other international telecommunications policy matters.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Masanobu Suzuki' in Japanese characters.

**Masanobu Suzuki**  
**Executive Vice President**  
**Nippon Telegraph and Telephone Corporation**  
**Global Business Headquarters**  
**20-2 Nishi-Shinjuku 8-Chome, Shinjuku-ku**  
**Tokyo 163-14 Japan**  
**+81-3-5353-5031**

**CERTIFICATE OF SERVICE**

I, Richard E. Nohe, a Vice President of NTT America, Inc., hereby certify that on this 12th day of August 1997, a copy of the foregoing reply comments was served by first-class mail, postage prepaid, to the parties listed below.

  
Richard E. Nohe

Dated: August 12, 1997

Peter Cowhey, Chief  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 800  
Washington, D.C. 20554

Diane J. Cornell, Chief  
Telecommunications Division  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 800  
Washington, D.C. 20554

Kelly Cameron  
Telecommunications Division  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 850  
Washington, D.C. 20554

John L. Bartlett  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006-2304

Frank Michael Panek  
Attorney for Ameritech  
Room 4H84  
2000 West Ameritech Center Drive  
Hoffman Estates, IL 60196-1025

Mark C. Rosenblum  
Lawrence J. Lafaro  
James J. R. Talbot  
AT&T Corp.  
295 N. Maple Avenue  
Room 3252H3  
Basking Ridge, NJ 07920

William B. Barfield  
David G. Richards  
1155 Peachtree Street, N.E.  
Atlanta, GA 30309

Michael K. Kellogg  
Austin C. Schlick  
Kellogg, Huber, Hansen,  
Todd & Evans  
1301 K Street, N.W.  
Suite 1000 West  
Washington, D.C. 20005

Cheryl Lynn Schneider  
BT North America Inc.  
601 Pennsylvania Ave., N.W.  
North Building, Suite 725  
Washington, D.C. 20004

Joel S. Winnik  
Hogan & Hartson L.L.P.  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004-1109

Madeleine Elizabeth Wall  
Group Director of Legal and  
Regulatory Affairs  
Cable & Wireless, plc  
124 Theobalds Road  
London WC1X 8RX  
United Kingdom

Philip V. Permut  
Joan M. Griffin  
Kelley Drye & Warren LLP  
1200 19th Street, N.W., Suite 500  
Washington, D.C. 20036

Delegation of the European Commission  
2300 M Street, N.W.  
Third Floor  
Washington, D.C. 20037  
Attn: Trade Section

Hans-Willi Hefekäuser  
Deutsche Telekom AG  
Friedrich-Ebert-Allee 140  
Bonn  
German

A. Bradley Shingleton  
Deutsche Telekom, Inc.  
1020 19th Street, N.W.  
Suite 850  
Washington, D.C. 20036

Robert J. Aamoth  
Joan M. Griffin  
Kelley Drye & Warren LLP  
1200 19th Street, N.W.  
Suite 500  
Washington, D.C. 20036

Junichiro Miyazaki, Counselor  
Embassy of Japan  
2520 Massachusetts Avenue, N.W.  
Washington, D.C. 20008

Margaret M. Charles  
Maria L. Cattafesta  
Swidler & Berlin, Chartered  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007

Wei Fong  
20 Floor, 169, Jen ai Road, Sec. 4  
Taipei, 106, Taiwan

Theodore Krauss  
Danielle K. Aguto  
France Telecom Inc.  
555 13th Street, N.W.  
Suite 1100 East  
Washington, D.C. 20004

Gérard Moine  
Alain-Louis Mie  
Jean-Louis Burillon  
France Telecom  
Public Affairs Directorate  
6, Place d'Alleray  
75505 Paris Cedex 15  
France

Jeffrey P. Cunard  
Debevoise & Plimpton  
555 13th Street, N.W.  
Suite 1100 East  
Washington, D.C. 20004

Michael J. Shortley, III  
Frontier Corporation  
180 South Clinton Avenue  
Rochester, NY 14646

R. Michael Senkowski  
John B. Reynolds, III  
Todd D. Daubert  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Ward W. Wueste  
GTE Service Corporation  
One Stamford Forum  
Stamford, CT 06904

Gail L. Polivy  
GTE Service Corporation  
1850 M Street, N.W.  
Suite 1200  
Washington, D.C. 20036

Philip L. Verveer  
Jennifer A. Donaldson  
Gunnar D. Halley  
Willkie Farr & Gallagher  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20036

Kailas J. Rao, Ph.D.  
Richard E. Kinder, Jr.  
Michael J. Flanigan  
Indus, Inc.  
777 East Wisconsin Avenue  
Suite 1900  
Milwaukee, WI 53202

Robert J. Aamoth  
Joan M. Griffin  
Kelley Drye & Warren LLP  
1200 19th Street, N.W.  
Suite 500  
Washington, D.C. 20036

Sanford C. Reback  
Carol R. Schultz  
Larry Blosser  
MCI Telecommunications Corporation  
1801 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Janice Obuchowski  
Michael Wack  
NextWave Telecom Inc.  
1101 Pennsylvania Ave., N.W.  
Suite 805  
Washington, D.C. 20005

Kevin McGilly  
Rohit Menezes  
Freedom Technologies, Inc.  
1100 New York Avenue, N.W.  
Suite 650 East Tower  
Washington, D.C. 20005

Christopher M. Bennett  
Nynex Long Distance Company  
1095 Avenue of the Americas  
Room 3828  
New York, NY 10036

Henry Goldberg  
Joseph A. Godles  
Mary Dent  
Goldberg, Godles, Wiener & Wright  
1229 Nineteenth Street, N.W.  
Washington, D.C. 20036

James D. Ellis  
Robert M. Lynch  
Timothy P. Leahy  
175 E. Houston, Room 1254  
San Antonio, TX 78205

Stanley J. Moore  
5850 W. Las Positas Blvd.  
Pleasanton, CA 94588



Rebecca S. Weeks, Lt. Col., USAF  
Carl Wayne Smith  
Defense Information Systems Agency  
701 S. Courthouse Road  
Arlington, VA 22204

Wayne V. Black  
C. Douglas Jarrett  
Brian Turner Ashby  
Keller and Heckman LLP  
1001 G Street, N.W.  
Suite 500 West  
Washington, D.C. 20001

Albert Halprin  
Randall Cook  
Halprin, Temple, Goodman & Sugrue  
Suite 650 East Tower  
100 New York Avenue, N.W.  
Washington, D.C. 20005

Leon M. Kestenbaum  
Kent Y. Nakamura  
Sprint Communications Company, L.P.  
1850 M Street, N.W.  
11th Floor  
Washington, D.C. 20036

Ng Cher Keng  
Telecommunication Authority of  
Singapore  
35 Robinson Road  
TAS Building  
Singapore 0106 China

J. Jeffrey Craven  
Jeffrey L. Ross  
Patton Boggs, L.L.P.  
2550 M Street, N.W.  
Washington, D.C. 20037

George Y. Wheeler  
Koteen & Naftalin, L.L.P.  
1150 Connecticut Avenue, N.W.  
Suite 1000  
Washington, D.C. 20036

Alfred M. Mamlet  
Maury D. Shenk  
Colleen Sechrest  
Stephoe & Johnson LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Luis López-van Dam  
General Secretary  
Telefónica International  
De España, S.A.  
Jorge Manrique, 12  
Madrid 28006  
Spain

Gary M. Epstein  
Teresa D. Baer  
Latham & Watkins  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Gregory C. Staple  
R. Edward Price  
Koteen & Naftalin, L.L.P.  
1150 Connecticut Avenue, N.W.  
Suite 1000  
Washington, D.C. 20036

John F. Lewis, Jr.  
Assistant Director in Charge  
National Security Division  
J. Edgar Hoover FBI Building  
935 Pennsylvania Ave., N.W.  
Room 7110  
Washington, D.C. 20535-0001

Daniel L. Poole  
U S West, Inc.  
1801 California St., Suite 5100  
Denver, CO 80202

Mary McDermott  
Linda Kent  
Keith Townsend  
Hance Haney  
United States Telephone Association  
1401 H Street, N.W. Suite 600  
Washington, D.C. 20005

Jeffrey M. Lang  
Deputy US Trade Representative  
Winder Building  
600 17th Street, N.W.  
Room 201  
Washington, D.C. 20506

Sheldon M. Goldman  
Viatel, Inc.  
800 Third Avenue  
New York, NY 10022

Aileen A. Pisciotta  
Joan M. Griffin  
Kelley Drye & Warren LLP  
1200 19th Street, N.W.  
Suite 500  
Washington, D.C. 20036

Timothy R. Graham  
Leo I. George  
Joseph M. Sandri, Jr.  
Barry J. Ohlson  
1146 19th Street, N.W.  
Suite 200  
Washington, D.C. 20036

Paul J. Sinderbrand  
William W. Huber  
Wilkinson, Barker, Knauer & Quinn  
1735 New York Avenue, N.W.  
Washington, D.C. 20006

Robert S. Koppel  
WorldCom, Inc.  
15245 Shady Grove Road  
Suite 460  
Rockville, MD 20850-3222

Catherine Wang  
Swidler & Berlin, Chartered  
3000 K Street, N.W.  
Suite 300  
Washington, D.C. 20007

International Transcription Service  
Federal Communications Commission  
2100 M Street, N.W., Suite 140  
Washington, D.C. 20037

Wireless Reference Room  
Wireless Telecommunications Bureau  
2025 M Street, N.W., Room 5608  
Washington, D.C. 20554